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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/989,505	11/20/2001	Takashi Yamaguchi	F-7231	2653

28107 7590 11/04/2003
JORDAN AND HAMBURG LLP
122 EAST 42ND STREET
SUITE 4000
NEW YORK, NY 10168

EXAMINER

ABDELWAHED, ALI F

ART UNIT	PAPER NUMBER
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3712

DATE MAILED: 11/04/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/989,505

Applicant(s)

YAMAGUCHI, TAKASHI

Examiner

Ali Abdelwahed

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 15 August 2003.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-18 is/are pending in the application.
- 4a) Of the above claim(s) 2-5 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1 and 6-18 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 4,7.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

Specification

The lengthy specification has not been checked to the extent necessary to determine the presence of all possible minor errors. Applicant's cooperation is requested in correcting any errors of which applicant may become aware in the specification.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1, and 6-18 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claims 1 and 12 recite the limitation "the setting values" in lines 24 and 26, respectively. There is insufficient antecedent basis for this limitation in the claims.

Claim(s) 6-11 and 13-18 depend from rejected claim(s) 1 and 12, respectively, and include all of the limitations of claim(s) 1 and 12 thereby rendering these dependent claim(s) indefinite.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1, 6-10, and 12-17 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 4,508,516 to D'Andrade et al. in view of U.S. Patent No. 5,195,920 to Collier.

D'Andrade et al. discloses the claimed invention except for the storing device for storing plural kinds of data pieces. However, Collier teaches a remote controlled toy vehicle comprising the aforementioned limitation (150). Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the vehicle of D'Andrade et al., in view of Collier, such that it would provide the vehicle of D'Andrade et al. with the aforementioned limitation for the purpose of specifying the relationship between the operation amount of the steering portion and the velocity ratio.

Claims 11 and 18 are rejected under 35 U.S.C. 103(a) as being unpatentable over D'Andrade et al. in view of Collier as applied to claims 1, 6-10, and 12-17 above, and further in view of U.S. Patent No. 6,083,104 to Choi.

D'Andrade et al., as modified, discloses the claimed invention except for the displaying device. However, Choi teaches a programmable toy vehicle comprising the

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aforementioned limitation (see figs.1 and 8A; [105, 106]). Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to further modify the vehicle of D'Andrade et al., as per the teachings of Choi, such that it would provide the vehicle of D'Andrade et al. with the aforementioned limitation for the purpose of displaying information concerning the operation of the vehicle.

Claims 1, 6-10, and 12-17 are rejected under 35 U.S.C. 103(a) as being unpatentable over EP 019 448 A1 to Calvin in view of U.S. Patent No. 5,195,920 to Collier.

Calvin discloses the claimed invention except for the storing device for storing plural kinds of data pieces. However, Collier teaches a remote controlled toy vehicle comprising the aforementioned limitation (150). Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the vehicle of Calvin, in view of Collier, such that it would provide the vehicle of Calvin with the aforementioned limitation for the purpose of specifying the relationship between the operation amount of the steering portion and the velocity ratio.

Claims 11 and 18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Calvin in view of Collier as applied to claims 1, 6-10, and 12-17 above, and further in view of U.S. Patent No. 6,083,104 to Choi.

Calvin, as modified, discloses the claimed invention except for the displaying device. However, Choi teaches a programmable toy vehicle comprising the

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aforementioned limitation (see figs.1 and 8A; [105, 106]). Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to further modify the vehicle of Calvin, as per the teachings of Choi, such that it would provide the vehicle of Calvin with the aforementioned limitation for the purpose of displaying information concerning the operation of the vehicle.

Response to Arguments

Applicant's arguments filed on August 15, 2003 have been fully considered but they are not persuasive.

In response to applicant's argument that there is no suggestion to combine the references, the examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988) and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). In this case, D'Andrade et al., Collier, and Choi are all analogous art, since they all teach remote control toy vehicles. The purpose and motivation for combining D'Andrade et al. with Collier and Choi was to provide D'Andrade with the concepts taught by Collier and Choi mentioned in the above rejections, since Collier and Choi teach these concepts for use with remote control vehicles, it would therefore have been obvious to one of ordinary skill in the art at the

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time the invention was made to combine the teachings of Collier and Choi with the remote control vehicle of D'Andrade et al. for the purpose of enhancing the functionality of the remote control vehicle of D'Andrade et al. Furthermore, the newly inserted limitation defining the velocity ratio appears to be an inherent characteristic of the operation of the driving control device as it performs the function of controlling the driving velocities of each pair of driving sources in order to impart a turning force on the vehicle. Examiner therefore reasserts the rejection.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ali Abdelwahed whose telephone number is (703) 305-

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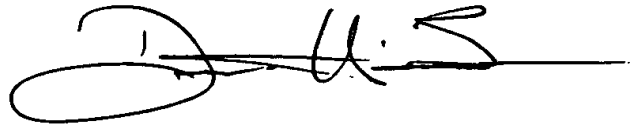
3311. The examiner can normally be reached Monday through Friday from 9:00 A.M. to 5:00 P.M.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Derris Banks can be reached on (703) 308-1745.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1148.

AA

10/31/2003

A handwritten signature in black ink, appearing to read 'D.H.B.', with a long horizontal line extending to the right.

DERRIS H. BANKS
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 3700